

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LE NHU LE,

Plaintiff,

v.

STATE OF WASHINGTON,

Defendant.

Case No. C14-535-JCC-JPD

REPORT AND RECOMMENDATION

On April 10, 2014, plaintiff presented to this Court for filing a civil rights complaint pursuant to 42 U.S.C. § 1983 together with an application to proceed with this action *in forma pauperis*. Plaintiff appeared to assert in his complaint that he was placed in danger when a picture of him was published in the Seattle Times newspaper along with a description of him as a witness for the government. Plaintiff identified the State of Washington as the lone defendant in his complaint.

On April 21, 2014, the Court issued an Order granting plaintiff's application to proceed *in forma pauperis* and his complaint was filed. On the same date, this Court issued an Order directing plaintiff to show cause why this action should not be dismissed for failure to state any

REPORT AND RECOMMENDATION - 1

1 cognizable claim for relief under § 1983 and for failure to identify any viable defendant. The
2 Court noted more specifically that plaintiff had not alleged in his complaint any violation of his
3 federal constitutional rights and that the facts alleged did not appear to implicate federal
4 constitutional concerns. The Court further noted that the State of Washington is not a person
5 within the meaning of § 1983, *Will v. Michigan Department of State Police*, 491 U.S. 58, 71
6 (1989), and plaintiff therefore could not proceed against the State of Washington in this action.

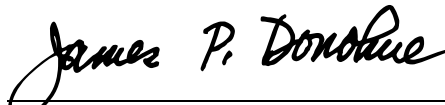
7 Plaintiff was granted thirty days within which to file a response to the Order to Show
8 Cause and was advised that his failure to timely respond to the Order would result in a
9 recommendation that this action be dismissed. To date, plaintiff has filed no response to the
10 Order to Show Cause.

11 When a complaint is frivolous, malicious, fails to state a claim on which relief may be
12 granted, or seeks monetary relief against a defendant who is immune from such relief, the Court
13 may dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C.
14 § 1915(e)(2)(B). Because plaintiff failed to identify any cognizable claim for relief or any viable
15 defendant in his civil rights complaint, this Court recommends that plaintiff's complaint and this
16 action be dismissed, without prejudice, pursuant to § 1915(e)(2)(B). A proposed order
17 accompanies this Report and Recommendation.

18 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
19 served upon all parties to this suit by no later than **June 19, 2014**. Failure to file objections
20 within the specified time may affect your right to appeal. Objections should be noted for
21 consideration on the District Judge's motion calendar for the third Friday after they are filed.
22 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no
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1 timely objections are filed, the matter will be ready for consideration by the District Judge on
2 **June 20, 2014.**

3 DATED this 29th day of May, 2014.

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5 JAMES P. DONOHUE
6 United States Magistrate Judge
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